

BILL ANALYSIS

Senate Research Center
81R10039 KFF-F

S.B. 1966
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Business & Commerce
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, nationally chartered banks offer debt cancellation and suspension contracts, which are considered a part of the loan itself, not insurance. Since federal law authorizes nationally chartered banks to offer these services, under parity rules, Section 93.008 (Powers Relative to Other Financial Institutions), Finance Code, state commercial and savings banks have similar authority.

In 2003, the Texas Legislature authorized lenders under Chapter 342 (Consumer Loans), Finance Code, to offer a debt suspension agreement or debt cancellation agreement to customers. The Texas Finance Code is silent regarding allowing lenders under Chapter 348 (Motor Vehicle Installment Sales) to offer customers similar agreements.

As proposed, S.B. 1966 authorizes motor vehicle dealers under Chapter 348 to debt cancellation agreements to the retail buyer.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 348.001, Finance Code, by adding Subdivision (1-a), to define "debt cancellation agreement."

SECTION 2. Amends Section 348.005, Finance Code, as follows:

Sec. 348.005. ITEMIZED CHARGE. Provides that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of charges authorized for insurance, service contracts, warranties, or a debt cancellation agreement by Subchapter C (Insurance). Makes a nonsubstantive change.

SECTION 3. Amends Subchapter B, Chapter 348, Finance Code, by adding Section 348.124, as follows:

Sec. 348.124. DEBT CANCELLATION AGREEMENTS. (a) Authorizes a lender, in connection with a retail installment transaction under this chapter, to offer to the retail buyer a debt cancellation agreement. Prohibits the lender from requiring that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

(b) Prohibits a debt cancellation agreement from being considered an insurance product.

SECTION 4. Amends Sections 348.208(b) and (c), Finance Code, as follows:

(b) Authorizes a retail installment contract to include as a separate charge an amount for a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124. Makes a nonsubstantive change.

(c) Provides that, notwithstanding any other law, service contracts and debt cancellation agreements sold by a retail seller of a motor vehicle to a retail buyer are not subject to Chapter 101 (Unauthorized Insurance) or 226 (Unauthorized and Independently Procured Insurance Premium Tax), Insurance Code.

SECTION 5. Effective date: September 1, 2009.